

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

The Authors Guild, Inc., Association of American
Publishers, Inc., et. al.,

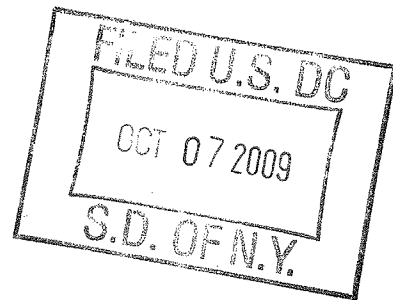
Plaintiffs,

v.

Google, Inc.,

Defendants.

Case No. 1:05-cv-8136-DC



NOTICE OF APPEAL

The American Society Of Media Photographers, Inc., Graphic Artists Guild, The Picture Archive Council Of America, The North American Nature Photography Association and Individual Photographers Joel Meyerowitz, Dan Budnik, Pete Turner And Lou Jacobs, Jr. (“Appellants”), hereby give notice that they appeal to the United States Court of Appeals for the Second Circuit from the order dated September 2, 2009 and entered in this action on September 10, 2009 (the “Order”), which Order deemed Appellants’ letter requesting a pre-motion conference to be a motion to intervene and denying this motion, which Order constitutes a final judgment as to Appellants, and from all other adverse decisions of this Court. The Order is annexed hereto as Exhibit A, and the page of the docket showing the Order’s entry on September 2, 2009 is annexed hereto as Exhibit B.

Appellants have timely filed objections to the proposed settlement in accordance with the Order. Additionally, Appellants filed a motion for reconsideration, dated September 24,

2009, and will amend this Notice of Appeal or dismiss the appeal depending on this Court's disposition of that motion.

DATED: October 7, 2009

Respectfully submitted,

By:



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Exhibit A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - -x

THE AUTHORS GUILD et al., :

Plaintiffs, :

- against - :

GOOGLE, INC., :

Defendant. :

- - - - -x

CHIN, District Judge

The Court has received requests for pre-motion conferences by the American Society of Media Photographers, Inc., the Graphic Artists Guild, the Picture Archive Council of America, the North American Nature Photographers Association, Joel Meyerowitz, Dan Budnik, Peter Turner, and Lou Jacobs, Jr. (the "proposed interveners"), seeking leave to intervene in this action. I have construed their letters as motions to intervene, and the motions are denied.

This case was filed some four years ago and has been conditionally settled; it is simply too late to permit new parties into the case. Moreover, the request for leave to intervene is based on the desire to be heard with respect to the proposed settlement. Intervention is not necessary for that purpose.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 9-2-09

ORDER

05 Civ. 8136 (DC)

The proposed interveners are free to file objections to the proposed settlement, but they must do so by the September 4, 2009 deadline.

SO ORDERED.

Dated: New York, New York
September 2, 2009



DENNY CHIN
United States District Judge

Exhibit B

09/02/2009	<u>228</u>	ORDER FOR ADMISSION PRO HAC VICE: granting <u>151</u> Motion for David Nimmer to Appear Pro Hac Vice. (Signed by Judge Denny Chin on 9/2/2009) (tve) (Entered: 09/02/2009)
09/02/2009	<u>229</u>	ORDER FOR ADMISSION PRO HAC VICE: granting <u>152</u> Motion for Alexander F. Wiles to Appear Pro Hac Vice. (Signed by Judge Denny Chin on 9/2/2009) (tve) (Entered: 09/02/2009)
09/02/2009	<u>230</u>	ORDER FOR ADMISSION PRO HAC VICE ON WRITTEN MOTION: granting <u>154</u> Motion for Jennifer Lynch to Appear Pro Hac Vice. (Signed by Judge Denny Chin on 9/2/2009) (tve) (Entered: 09/02/2009)
09/02/2009	<u>231</u>	ORDER FOR ADMISSION PRO HAC VICE ON WRITTEN MOTION: granting <u>156</u> Motion for Cindy Cohn to Appear Pro Hac Vice. (Signed by Judge Denny Chin on 9/2/2009) (tve) (Entered: 09/02/2009)
09/02/2009		Transmission to Attorney Admissions Clerk. Transmitted re: <u>229</u> Order on Motion to Appear Pro Hac Vice, <u>231</u> Order on Motion to Appear Pro Hac Vice, <u>228</u> Order on Motion to Appear Pro Hac Vice, <u>230</u> Order on Motion to Appear Pro Hac Vice, to the Attorney Admissions Clerk for updating of Attorney Information. (tve) (Entered: 09/02/2009)
09/02/2009	<u>266</u>	MOTION for John B. Morris, Jr. to Appear Pro Hac Vice. Document filed by Amicus Curaie..(mro) (Entered: 09/08/2009)
09/02/2009	<u>428</u>	ORDER: The Court has received requests for pre-motion conferences by the American Society of Media Photographers, Inc., the Graphic Artists Guild, the Picture Archive Council of America, the North American Nature Photographers Association, Joel Meyerowitz, Dan Budnik, Peter Turner, and Lou Jacobs, Jr., seeking leave to intervene in this action. I have construed their letters as motions to intervene and the motions are denied. The proposed interveners are free to file objections to the proposed settlement, but they must do so by the September 4, 2009 deadline. (Signed by Judge Denny Chin on 9/2/2009) (jar) (Entered: 09/10/2009)
09/02/2009	<u>506</u>	LETTER addressed to J. Michael McMahon from Mai Spijkers dated 8/26/2009 re: We Prometheus/Bert Bakker are writing to you in regards to the propose settlement Agreement between Google Inc., and the Authors Guild and the Association of American Publishers. We would like to raise the following concerns and Objections to this Settlement. (jmi) (Entered: 09/11/2009)
09/03/2009	<u>234</u>	NOTICE OF APPEARANCE by Joseph Solomon Hall on behalf of Ishmael Jones, Wendy Shalit, American Society of Journalists and Authors, Charlotte Allen, Harold Bloom, Elliot Abrams, Richard Armey, Jacques Barzun, Nicholas Basbanes, Stephen Bates, Shawn J. Bayern, Jack Beerman, Michael Behe, Michael Cox, Douglas Crase, Frank Gonzalez-Crussi, Midge Decter, John Derbyshire, Thomas M. Disch, Gerald Early, Mel Eisenberg, Richard A. Epstein, Henry Fetter, David D. Friedman, David Gelernter, Gabrielle Glaser, Mary Ann Glendon, Victor Davis Hanson, Robert Herbold, Arthur Herman, Charles Hill, Manuela Hoelterhoff, Richard Howard, Donald Kagan, David Kuo, Michael Ledeen, Susan Lee, Mary Lefkowitz, David Lehman, John Lehman, Howard Markel, Sherwin B. Nuland, Steven Ozment, Michael Perry, Norman Podhoretz,

CERTIFICATE OF SERVICE

I, Christina J. DeVries, Esq., do hereby certify that on October 07, 2009, I did cause to be served a true and correct copy of the foregoing Notice of Appeal, in *The Authors Guild et. al. v. Google, Inc.*, Case No. 05 CV 8136-DC, to be filed electronically through the ECF system of this Court, which causes a "Notice of Electronic Filing" to be automatically transmitted by email to all ECF users who have appeared in this matter, which users by registering have consented to service by such electronic means.

Additionally I hereby certify that on October 7, 2009, I did cause to be served a true and correct copy of the foregoing Notice of Appeal upon the following individuals via United States Postal Service, first class mail, on October 7, 2009:

J. Kate Reznick
Boni & Zack LLC
15 St. Asaphs Road
Bala Cynwyd, PA 19004

Matthews Christian Schrurers
Computer and Communications Industry Association
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Washington, DC 20006

Any further persons identified in the Notice of Electronic Filing as having appeared in the case and who are not registered ECF users will also be served by United States Postal Service, first class mail.

Dated: October 7, 2009



Christina J. DeVries
Counsel for The American Society Of Media Photographers, Inc., Graphic Artists Guild, The Picture Archive Council Of America, The North American Nature Photography Association And Individual Photographers Joel Meyerowitz, Dan Budnik, Pete Turner And Lou Jacobs, Jr.